

Remarks

Prior to this communication, claims 1 – 34 were pending. Claims 1 – 34 were rejected. By this response, claims 1, 2, 6, 7, 8 – 13, 15, 17, and 20 – 30 have been amended; and claims 31 – 34 have been cancelled. Examination and reconsideration of the claims in view of the following remarks are respectfully requested.

35 U.S.C. §103 Rejections

Claims 1 – 34 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable by U.S. Patent No. 5,871,398 (“Schneier”).

Claims 1 and 15 have been amended.

Amended claim 1 is directed to a “method of operating a gaming system” that includes, among other things,

- the server via the random seed generator creating a plurality of random seeds, and communicating the seeds for storage in the secure storage and processing device, via the secure storage and processing device read/write interface, the seeds providing a plurality of predetermined outcomes for future games to be played on the gaming console,
- communicating between the gaming console and the secure storage and processing device via the secure storage and processing device read/write interface, and upon receipt of an input initiating a game on the console, producing in the secure storage and processing device a set of random numbers required to play a game from one of the seeds, and producing a game play sequence including a game and/or gamble outcome indication at least in part from the produced random numbers,
- said gaming console removably receiving said secure storage and processing device, requesting and buffering said plurality of game outcomes from said server appropriate to one or more games to be played at said gaming console and, before all of the outcomes have been used, said gaming console requesting replacement

outcomes from said server, and not waiting for a response from said server before providing on the gaming console feedback regarding a game, said gaming console taking actions without waiting for commands from said server, and

- said received secure storage and processing device storing said plurality of random seeds, and generating another plurality of game outcomes based on said stored random seeds to one or more games to be played on said gaming console.

Applicants respectfully submit, even before the current amendment, that claims 1 – 30 are patentable in view of Schneier.

Schneier teaches an off-line lottery system enables players to purchase instant-type lottery game outcomes for a central computer and view the outcomes remotely. Schneier enables a player to play instant-type tickets as he or she would traditional paper scratch-off tickets. (Col. 1, lines 18 – 25.) The ticket contains indicia indicating a win/lose result or prize status. (Col. 1, lines 34 – 37.) A handheld ticket viewer (HTV 20) allows a player to view the ticket results.

Furthermore, the Examiner indicated on pages 3 – 5 of the Action that “Schneider et al. does not specifically disclose the server creating a plurality of random seeds ... to provide a plurality of predetermined outcomes for future games;” (page 3, Action) “Schneider also does not specifically disclose gaming consoles request and buffering said plurality of game outcomes from said server appropriate to one or more games to be played at said one or more gaming consoles, and before all the outcomes have been used, said one or more gaming consoles request replacement outcomes from said server;” (page 4, Action) and “Schneider also does not specifically discloses said one or more gaming consoles not waiting for a response from said server before giving the player feedback regarding a game, said one or more gaming consoles processing user input and taking actions without waiting for commands,” (page 4, Action). Therefore, Schneier does not disclose all elements of claims 1 and 15.

Specifically, while the Examiner indicates that Schneier does not disclose “the server creating a plurality of random seeds ... to provide a plurality of predetermined outcomes for future games,” the Examiner also contradictorily indicates that

multiple outcomes may be generated using a single seed received from the central server, wherein said multiple outcomes may be

used to play multiple games (col. 15, lines 40-47, **‘The HTV 20 includes a game generation routine ... which provides for the generation of various games in accordance with the purchased outcome data’**). These multiple games cannot be played simultaneously, and therefore every win or lose outcome that will be generated as a result of playing these multiple games comprises a ‘future game’ outcome... it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize either a plurality of random seeds or a single random seed, as it is possible to generate multiple game outcomes using both without changing the overall effect of the gaming device.

(Pages 3 – 4, Action, emphasis added.) However, the Examiner also construed that the claimed server to include Schneier’s CMC 12, and the claimed console to include Schneier’s HTV 20 (Page 2, Action.) By Examiner’s own admission, the HTV 20 “provides for the generation of various games in accordance with the purchased outcome data,” rather than the CMC 12. That is, the Examiner has failed to establish a *prima facie* case of obviousness, among other things. As such, Schneier does not teach or suggest “the server ... creating a plurality of random seeds ... the seeds providing a plurality of predetermined outcomes for future games,” among other things, as recited in claim 1.

Furthermore, the Examiner also indicates that “the smart card disclosed by Schneier does not process the random number seed in order to generate game outcomes to be displayed by the game console.” (Page 8, Action.) Even if Applicants were to construe the claimed secure storage and processing device to include Schneier’s HTV 20 or smart card 28, neither the HTV 20 nor the smart card 28 “[generates] another plurality of game outcomes based on said stored random seeds to one or more games to be played on said gaming console,” as recited in claim 1.

Therefore, claim 1 is patentable in view of Schneier, and is allowable.

Claims 2 – 14 depend directly or directly from claim 1. Therefore, claims 2 – 14 are also allowable for at least the reasons set forth above with respect to claim 1.

Additionally, while the Examiner indicated that “Schneider also does not specifically disclose gaming consoles request [sic] and buffering said plurality of game outcomes from said server appropriate to one or more games to be played at said one or more gaming consoles, and

before all the outcomes have been used, said one or more gaming consoles request replacement outcomes from said server,” the Examiner also indicates that

receiving necessary information from a server before the moment it [sic] is necessary when there is a known future need was well known in the art at the time the invention was made. It would have been obvious to one skilled in the art at the time the invention was made to include this well known feature with Schneider [sic] in order to reduce lag and down time.

(Page 4, Action.) The Examiner also indicated that “Schneider also does not specifically discloses said one or more gaming consoles not waiting for a response from said server before giving the player feedback regarding a game, said one or more gaming consoles processing user input and taking actions without waiting for commands,” the Examiner also indicates that

locally controlling the game consoles rather than having the servers control them was well known in the art at the time the invention was made. It would have been obvious to one skilled in the art at the time the invention was made to combine Schneider with this well known technique in order to allow for reduced server strain.

(Page 4, Action.)

The Examiner appeared to broadly define “necessary information,” and “locally controlling the game.” It is clear that Schneier does not teach or suggest any “necessary information,” or “locally controlling the game consoles” as defined in claim 1 and indicated by the Examiner’s admission. Even if Applicants were to construe the claimed outcomes to include “the necessary information,” the Examiner still has not established a proper *prima facie* case of obviousness. For example, the Examiner has failed to point out exact what “necessary information” Schneier has disclosed, and what Schneier has disclosed to “locally controlling the gaming consoles” with respect to claim 1.

Therefore, Applicants can only assume that the Office Action is taking Official Notice of the subject matter disclosed in claims 1 – 30. As such, Applicants respectfully traverse the perceived and explicit assertions as further set forth below. Alternatively, if the Examiner’s assertions are based on the personal knowledge, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should **only** be asserted when the subjects asserted to be common knowledge are “capable of instant and unquestionable demonstration as being well-known.” That is, the subjects asserted must be of “notorious character” under MPEP § 2144.03(A).

However, Applicants respectfully submits that the subject matter of the perceived and explicit assertions of Official Notice, as stated in pages 4 and 5 of the Office Action, are not well-known in the art as evidenced by the searched and cited prior art. Applicants respectfully submit that the Examiner has performed “a thorough search of the prior art,” as part of the Examiner’s obligation in examining the present application under MPEP § 904.02.

Additionally, Applicants respectfully submit that the Examiner’s searched and cited references found during the Examiner’s thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art. However, in the Examiner’s thorough and detailed search of the relevant prior art, none of the prior art taught or suggested the subject matter of the perceived and explicit assertions of Official Notice with regards to claims 1 and 15, as stated in pages 4 and 5 of the Office Action. That is, the Examiner’s thorough and detailed search of the prior art has failed to yield any mention of the limitations in claims 1 and 15, which the Office Action concedes are not explicitly found in Schneier, and which the Examiner asserts are widely known in the art. Applicants respectfully submit that if the subject matter of these assertions of Official Notice had been of “notorious character” and “capable of instant and unquestionable demonstration as being well-known” under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner’s thorough and detailed search of the prior art.

If the Examiner had found any teaching of relevant subject matter, the Examiner would have been obligated to list the references teaching the relevant subject matter and make a rejection. Consequently, Applicants respectfully submit that the prior art does not teach the subject matter of the perceived assertions of Official Notice stated in pages 4 and 5 of the Office Action and respectfully traverses the perceived assertions of Official Notice.

Applicants specifically challenge the perceived and explicit assertions of Official Notice with regard to claims 1 and 15. As stated above, Applicant respectfully traverse the perceived

and explicit assertions of Official Notice and submits that the subject matter of claims 1 and 15 is not of such “notorious character” that it is “capable of instant and unquestionable demonstration as being well-known.” Under MPEP 2144.03, the Examiner is now obligated to provide a reference(s) in support of the perceived assertions of Official Notice if the Examiner intends to maintain any rejection based thereon. Additionally, Applicants respectfully request the Examiner reconsider the assertion of Official Notice and provide any basis for the assertions of Official Notice.

It is also clear that Schneier does not teach or suggest any “said gaming console ... requesting and buffering said plurality of game outcomes from said server appropriate to one or more games to be played at said gaming console and, before all of the outcomes have been used, said gaming console requesting replacement outcomes from said server,” as recited in claim 1, even by the Examiner’s admission.

Therefore, claim 1 is patentable in view of Schneier, and is allowable. Claims 2 – 14 depend directly or indirectly from claim 1. Therefore, claims 2 – 14 are also allowable for at least the reasons set forth above with respect to claim 1.

Claim 15 and dependent claims 16 – 30 disclose similar subject matter. Particularly, claim 15 is directed to a gaming system that includes, among other things, “said at least one secure storage and processing device stores said plurality of random seeds, and generates another plurality of game outcomes based on said stored random seeds to one or more games to be played on said gaming console.”

Therefore, claim 15 and dependent claims 16 – 30 are allowable for at least the reasons set forth above.

Claims 3, 13, 17, 27, 29, 33, and 34 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Schneier in view of U.S. Patent No. 5,276,312 (“McCarthy”).

Claims 33 and 34 have been canceled.

Claims 3 and 13 depend from claim 1; and claims 17, 27, and 29 depend from claim 15. Therefore, claims 3, 13, 17, 27, and 29 are allowable for at least the reason set forth above.

McCarthy does not cure the deficiencies of Schneier.

As the Examiner states, Schneier fails to disclose a secure storage and processing device that is a smartcard or smartcard chip. While McCarthy discloses a smartcard, McCarthy simply stores verified wager lotteries, instant game outcomes, and immediate payout number matching games using the smartcard as the transfer media. (Abstract) As with Schneier, the processing capability of the secure storage and processing device and the interaction with both the gaming console and the server is absent in the smartcard system of McCarthy. In McCarthy, the lottery tickets are stored on the card, and the winning outcome is determined later by a central processor. (Col. 1, lines 7 – 28.) A player is guessing which number(s) will be chosen, rather than having outcomes downloaded and playing out the game with the secure storage and processing device and the gaming console as recited in the presently pending claims. (Col. 2, lines 6 – 24, and col. 8, lines 35 – 40.)

Therefore, McCarthy does not teach or suggest “said received secure storage and processing device storing said plurality of random seeds, and generating another plurality of game outcomes based on said stored random seeds to one or more games to be played on said gaming console,” as recited in claim 1.

No new matter has been added.

Conclusion

Applicant respectfully submits that all of claims 1 – 30 are allowable. In the event that the Examiner believes a telephone interview with the undersigned Applicant's Representative would be helpful in advancing prosecution of this patent application, the undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

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